



Upper Similkameen Indian Band  
161 Snaza'ist St, Box 220  
Hedley BC  
VOX 1K0

## LT to EMLCI re. Designation Request

July 7, 2023

*Via email*

Katherine St. James  
Environmental Assessment Office  
PO Box 9426 Stn Prov Govt  
Victoria BC V8W 9V1

Attention: Katherine St. James - A/Executive Project Director – Metal Mining

Dear Ms. James:

### **Re: USIB Initial Comments on Designation Request for the New Ingerbelle Mine 'Extension'**

I am writing you in response to your June 27, 2023, request for comments from Upper Similkameen Indian Band (USIB) in relation to a request by our sister nation, the Lower Similkameen Indian Band (LSIB), to have the Copper Mountain New Ingerbelle Mine 'Extension' designated reviewable under the BC EAA (2018).

**Please consider these to be initial comments. We would appreciate a meeting with your office to review them, provide additional information, and answer any questions.** We provide our comments on a preliminary basis, and with limited available time and resources for consideration of the proposed New Ingerbelle Mine and its designation. This submission is not intended to be a complete or authoritative depiction of the dynamic and living system of use, knowledge and stewardship maintained by USIB members in relation to the New Ingerbelle area. The information contained here should not be construed as to define, limit, or otherwise constrain the First Nations rights of the USIB. Our submission of comments on is not an endorsement of the decision-making process and does not indicate USIB consent to or support for the Project, or provincial decisions that may be made as a result.

### Context

While we are happy to provide comment on the LSIB request, we also wish to remind you that we have already been in communication with EAO staff (Mary Rathbone and Andrew Greene) beginning three years ago (summer 2020) regarding this proposed 'expansion', and regarding the magnitude of Project impacts on USIB rights, including our lands, waters, and people. Since 2020, we have also been in regular contact with BC representatives at EMLI regarding this



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Project. Over this time, we have been very clear that we consider the proposed Project to have extremely high impact on our rights and interests through additional Project and cumulative effects on our lands, waters, and people, and through removal of valuable economic resources without recognition of Similkameen stewardship and title. We have provided fourteen USIB Goalposts to provide guidance on our minimum expectations of any BC decision making process related to mines and mining on our lands, and we have been clear that, regardless of the regulatory path that BC chooses for the proposed expansion, the duty of BC to recognize and respect Similkameen governance and decision-making regarding the Project, consistent with UNDRP, the BC DRIPA, remains the same.

The Crown has abundant preliminary information regarding our concerns already on file, but your letter is written as if BC has no knowledge of USIB perspectives regarding New Ingerbelle. It includes no recognition of the substantial information and perspectives we have already provided you. This suggests a level of meaninglessness in BC's engagement with us that is more than concerning, and we hope is not reflective of your regard for our time, energy, and jurisdiction over our lands and waters. Before we next meet on this matter, we expect and encourage your office to refer to and recognize the knowledge that BC already has.

We also note that while the EAO has requested comment on the LSIB designation request, and some relevant letters are on file on the EAO's EPIC registry, there is no initial Project Description registered on EPIC. The proponent has updated their plans for New Ingerbelle several times, and some aspects of the design, including design of a large pit immediately adjacent the Similkameen River, present enormous risk. We are not confident that the best and most up to date information is being considered as part of your consideration of designation. Under separate email, we have requested that your office require the proponent to update their Project Description and post it on EPIC so that all parties can be clear regarding what 'the Project' is that is being considered, and how it is defined for the purpose of the designation decision. There are important USIB perspectives that need to be considered in interpreting the Reviewable Projects Regulation, and clear definition of both the New Ingerbelle footprint, and the existing Copper Mountain Mine footprint, as well as the relationship between them as distinct mining areas, is critical.

#### USIB Comments on the Designation Request

Our understanding of the proposed New Ingerbelle Mine extension is that it would result in a large expansion of mining and serious impact to an area west of the Similkameen River that has not been actively mined in more than 25 years. The expansion would result in a massive pit dug well below the bottom of the Similkameen River, and less than 50m from it. The Project would extend the duration of impacts from the Copper Mountain Mine, east of the river, as New Ingerbelle ore would be processed at the Copper Mountain Mine facility. The resulting economic resources would be removed from our lands, without recognition of our economic



rights, and the resulting tailings would require the expansion, and increased height, of a tailings storage facility that is already extremely high risk, and one of the tallest in the world.

Our lands, waters and people have already been enormously impacted by existing and past mining in our territory, almost none of which has been cleaned up or restored adequately. We have multiple mine sites, some permitted by BC as recently as the 1980's, that BC has allowed to be abandoned and that continue to leach toxins into our rivers and ground water without meaningful response from BC.

With the context of our comments made clear, we understand your June 27 request for USIB comment to be in the interest of "further understanding if the Project could have potential effects on First Nations and the rights recognized and affirmed by Section 35 of the Constitution Act, 1982."

In particular, we understand that the EAO is seeking comment on the following:

- A preliminary description of the Upper Similkameen Indian Band's governance role in relation to the area affected by the proposed project including any arrangements or protocols with neighbouring Indigenous nations or any arrangements with other governments that provide clarity regarding Indigenous decision-making in the area; and,
- A preliminary description of the Similkameen Indian Band's interests and how Similkameen Indian Band believes the proposed project or designation thereof could interact with or impact these interests, including which project component(s) could interact with or impact these interests.

The New Ingerbelle Mine area, and the adjacent Copper Mountain Mine, are in the heart the traditional territory of the USIB. Our Similkameen River, the life blood of our Nation, and of our family at LSIB, runs in between the two mine areas. Our people continue to rely on our territory, including the Project area, for the exercise of a wide range of USIB First Nations rights, and to support ourselves economically, culturally, and socially.

Based on oral history and Similkameen law, USIB recognizes itself to be the Nation with primary First Nations stewardship authority for the area of CMM, with strong evidence of USIB title. USIB also recognizes LSIB, as a sister nation, to have a co-governance role over the CMM area, and co- authority over downstream portions of the Similkameen River. No other First Nations or Metis organization is recognized by USIB as having First Nations rights or interests in the CMM area, except as may be recognized formally by USIB through Similkameen protocol and Similkameen law. USIB expects the Province to conduct consultations regarding this project, including on this designation request, accordingly.



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If BC has questions regarding claims of rights or interests made by other Indigenous nations regarding the CMM area, we advise you, based on our oral histories and Similkameen laws, to consider all nations other than USIB and LSIB to have limited, or no, Indigenous interest in the area. If there is any dispute, BC should refer the disputing Nation or group to USIB and LSIB jointly so that the Nation or group's claims can be considered and decided on the basis of Similkameen law and tradition.

Our understanding is that USIB, alongside our LSIB family members, maintains full and undivided, unceded, and unsurrendered First Nations title to all lands and waters, surface and subsurface, as well as air, in and around the proposed New Ingerbelle Project area, as well as the adjacent Copper Mountain Mine area. We maintain our full First Nations rights to all our cultural practices, cultural places, and the full range of plants, animals and living things that sustain us, as well the health of our land, water, and air.

Based on available information, the proposed New Ingerbelle Project, including its pits, roads, water management and tailings management are likely to result serious and permanent impact to our practice of culture, rights, and title across the full spectrum of our First Nations rights.

As noted above, the information provided with this letter is incomplete and preliminary due to resource and time constraints and may be amended or added to by USIB as new information becomes available. We expect the Province to work with us in good faith to meaningfully address the issues we identify.

We look forward to your consideration and to meeting with you regarding this letter soon.

Sincerely,

Chief Bonnie Jacobsen

Councillor Mike Allison

Councillor Charlie Allison